

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Timothy Milner,
Petitioner-Appellant,

v.

Dickinson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-30-0597
Parcel No. 03-09-204-011

Docket No. 10-30-0598
Parcel No. 03-09-203-004

On May 2, 2011, the above-captioned appeals came on for consideration before the Iowa Property Assessment Appeal Board. The appeals were conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Timothy Milner requested his appeals be considered without hearing. He was self-represented. The Board of Review designated Assistant County Attorney Lonnie Saunders as its legal representative. It submitted documentary evidence in support of its decisions. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Timothy Milner, lessee of two lots at the north end of Big Spirit Lake, Spirit Lake, Iowa, appeals from the Dickinson County Board of Review decisions reassessing the properties. Both parcels are located in an area known as McClelland's Beach. McClelland's Beach subdivision was platted in 2007 and received what the assessor termed "developers' depreciation" for assessment years 2007, 2008, and 2009. The adjustment, which we assume was related to the three-year platting law, was removed for the 2010 assessment.

APPEAL OF LOT 91

According to the property record card, Parcel 03-09-204-011 (Lot 91) has 50 feet of lake frontage, 50 feet of road frontage, a depth of 139.79 feet on one side, and a depth of 145.16 feet on the other side. The parcel has a depth factor of 0.98, 49.00 effective front feet, and a \$5000 per-front-foot price.

The real estate was classified as residential on the initial assessment of January 1, 2010, and valued at \$230,300, representing \$230,300 in land value and no improvement value. This was a change from the 2009 assessment.

Milner protested to the Board of Review on the ground the assessment is not equitable as compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a). He sought a reduction to \$225,000 on Lot 91. The Board of Review denied the petition. Board of Review minutes indicate adjustments were given on McClelland's Beach lots if an easement and/or road ran through the lot.

Milner filed his appeal with this Board and alleged the same ground.

Milner claimed the correct assessment of Lot 91 should be \$160,000. He provided a list of twenty lakeside lots in Shore Acres, McClelland Beach, and Martha Yarns showing the land assessment of those lakefront properties based on a per-linear-foot of shore frontage value and a per-square-foot value. We note he used a different method of calculating the unit values of the properties than that used by the assessor. Milner simply divided the land assessment by the actual lakefront footage or the total size of the site to arrive at per-front-foot values and per-square-foot values. This method failed to apply any depth or shape factor to the properties to the front-foot method.

The Board of Review provided an explanation of the method used for calculating land values based on front footage. The dimensions of the lot were used to calculate the effective front foot of

lakeshore by adjusting the actual front footage by a depth factor, then multiplying the result by a unit price. The assessor uniformly applied a unit price of \$5000 per effective front foot in this lake area. This figure would then be adjusted for pie-shaped lakeshore frontage or other necessary adjustments. Exhibits B and C show the “85-15” uniform method developed and used by the assessor for lakeshore pie shaped lots. The following chart summarizes the Board of Review exhibits showing the land assessment of Lot 91:

Land Values	Unit Pricing	Lake Frontage	Road Frontage	Lot Depth	Lot Depth	Depth Factor	Effective Front Foot	Adjustments	Economic Adjustment	Assessed Value
Lot 91	\$5,000	50	50	139.79	145.16	0.98	49.00	-6%	none	\$230,300

To support its value on Lot 91, the Board of Review offered exhibits showing four listings of vacant land sales on McClelland Beach. These properties were listed in July 2010 after the assessment date and no actual sale prices were provided for them. The land assessments are summarized in the following chart:

Address	Listing Price	Assessed Value	Effective Front Foot	Unit Pricing	Total Adjustments	Map Factor ¹	Assessed Per Effective Front Foot as Adjusted
Subject Lot 91		\$230,300	49.00	\$5000	-6%	0.94	\$4700
Lot 73	\$291,708	\$233,000	55.09	\$5000	-10%	0.94	\$4229
Lot 70	\$286,092	\$229,400	54.23	\$5000	-10%	0.94	\$4230
Lot 46	\$401,688	\$245,100	57.95	\$5000	-10%	0.94	\$4230
Lot 37	\$283,554	\$247,100	66.39	\$5000	-22% ²	0.94	\$3722

The listing price is not relevant to this analysis since no actual sales prices were offered. However, the unit price is uniform for all properties. The assessed land values after adjustments range from \$3722 per effective front foot to \$4230 per effective front foot. The Milner land assessment has

¹ After the total adjustments are made to the unit price, a map factor is applied to calculate the adjusted assessed value per effective front foot.

² This property had a 10% adjustment that was applied first and an additional 12% adjustment was applied to the balance before applying the map factor.

the lowest adjustment of the listed lots and results in a front foot value higher than similar properties on McClelland Beach.

The Board of Review also provided a list of twenty-four land sales that occurred in 2007 and 2008³ when the properties were first made available for purchase by leaseholders. The lots range from 35.23 front feet to 95 front feet. Sale prices ranged from \$140,000 to \$364,950, or \$5000 per front foot. The 2010 land assessments for these properties range from \$118,400 to \$291,500, or \$3977 to \$4700 per effective front foot and a median of \$4366 per front foot. Lot 91 is assessed at \$4700 per effective front foot, which is at the upper end of the range as compared to other lakeshore property. We note the 2010 assessment of every parcel listed was less than the 2007-2008 purchase prices.

APPEAL OF LOT 109

According to the property record card, Parcel 03-09-203-004 (Lot 109) has 105.2 feet on the rear, 103 feet of road frontage, a depth of 70 feet on one side, and a depth of 75.55 feet on the other side. The parcel has a depth factor of 0.69, 71.58 effective front feet, and an \$800 per effective front foot price.

The real estate was classified as residential on the initial assessment of January 1, 2010, and valued at \$53,800, allocated entirely to the land. This was a change from the 2009 assessment.

Milner protested to the Board of Review on the ground the assessment is not equitable as compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a). He sought a reduction to \$35,000 on Lot 109. The Board of Review denied the petition. Board of Review minutes indicate adjustments were given on McClelland's Beach lots if an easement and/or road ran through the lot.

Milner filed his appeal with this Board and alleged the same ground.

³ With the exception of one 2004 sale, the sales occurred in the 2007 to 2008 time frame.

Miner claimed the assessment of Lot 109 should be \$15,900 because it is a divided leased lot⁴ and a lease not expiring until 2020. The two lessees each have a garage on the Lot 109, which Milner believes are worth less than \$3000 apiece. Neither lessee can build on this lot due to the lease. Milner submitted exhibits showing the Lot 109 survey, dimensions, and lessee division. He also provided a copy of a portion of a stipulated settlement agreement regarding rent allocation between he and the other lessee. None of Milner's evidence related to the issue of whether Lot 109 was equitably assessed as compared to other similar properties.

The following chart summarizes the Board of Review exhibits showing the land assessment of Lot 109:

Land Values	Unit Pricing	Rear Frontage	Road Frontage	Lot Depth	Lot Depth	Depth Factor	Effective Front Foot	Assessed Value
Lot 109	\$800	105.2	103	70	75.55	.69	71.58	\$53,800

To support its land value on Lot 109, the Board of Review supplied four sales ranging from 2007 to 2010. The sale dates, prices and 2010 assessment data is summarized below:

Address	Sale Date	Sale Price	Assessed Value	Land Quality	Effective Front Foot	Unit Pricing	Assessed Per Effective Front Foot
Subject Lot 109			\$53,800	R-800	71.58	\$800	\$751.61
Lot 107	5/26/2010	\$48,000	\$20,700	R-400	55.03	\$400	\$376.16
Lot 114	7/3/2008	\$48,000	\$44,200	R-800	58.82	\$800	\$751.45
Lot 105	7/31/2007	\$49,208	\$40,200	R-800	53.47	\$800	\$751.82
Lot 118	7/27/2007	\$43,072	\$42,000	R-800	55.89	\$800	\$751.48

While most of the sale dates do not correspond with the January 1, 2010, assessment period, a comparison of the assessed value per effective front foot of the subject property to the three similar quality lots⁵ indicates uniform pricing.

⁴ The lot is divided into three parts. Milner leases Lot 109B and 109C. Lot 109A is leased by another individual.

⁵ Lot 107's land quality is listed as inferior as compared to the other listed lots making it less suitable for comparison.

Reviewing all the evidence, we find substantial evidence is lacking to support the Milner's contention his assessments are inequitable. We find the Board of Review's explanation of land pricing was reasonable and the method was applied uniformly to other lots in Milner's area. Therefore, we find the assessments reflect equitable valuation of Milner's properties as of January 1, 2010.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

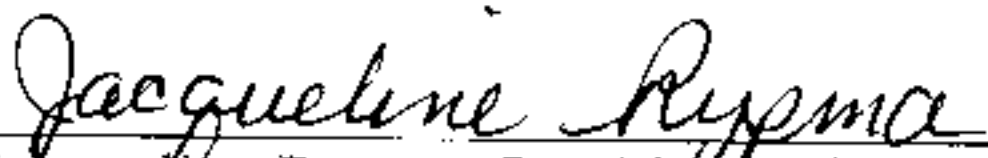
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Milner failed to prove inequity under either of these methods.

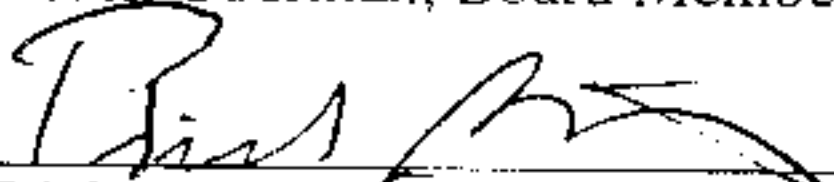
Viewing the record as a whole, we determine the preponderance of the evidence does not support Milner's claims of inequitable assessment as of January 1, 2010. We, therefore, affirm the property assessments as determined by the Board of Review. The Appeal Board determines the Lot 91 property assessment value as of January 1, 2010, is \$230,300, and the Lot 109 property assessment value as of January 1, 2010, is \$53,800.

THE APPEAL BOARD ORDERS the January 1, 2010, assessments as determined by the Dickinson County Board of Review are affirmed.

Dated this 6 day of July 2011.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Member


Richard Stradley, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7-6</u> , 201 <u>7</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
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